



## *Land Use and Zoning Meeting Minutes*

*May 21, 2009*

STAFF:	David Radachy
DATE:	10 December 2009
APPROVED BY:	<i>ju3</i>

The Land Use and Zoning Committee hereby finds and determines that all formal actions were taken in an open meeting and that all deliberations of the Land Use and Zoning Committee, which resulted in formal action, were taken in a meeting open to the general public, in full compliance with applicable legal requirements of Section 121.22 of the Ohio Revised Code.

The meeting was called to order at 6:30 p.m. by Chairman Terriaco

The following members were present: Messrs. Bodnar, Hullihen, Kenyon, Klco, Morse, Terriaco, and Welch, and Messes. Diak and Ross. Staff: David Radachy.

Mr. Terriaco asked for any comments from the public. Nobody from the public was in attendance.

Mr. Terriaco asked Mr. Radachy to present the cases.

There are five cases.

### **Madison Township- District Change A-1, Agriculture and M-1, Industrial to S-1, Special**

Staff stated that request for the change was from A-1, Agriculture and M-1, Industrial to S-1 Special District. Staff stated that this request was initiated by Mark Mackovjak and is on 93.853 acres of land. Staff showed the air photo of the property. Mr. Klco stated there was more than 93.853 acres; the request was for over 100 acres and the air photo was not highlighting all the parcels. Staff stated that he would correct the acreage and the air photo.

Staff showed the zoning map and the land use map and stated that this is in a mostly residential area. He also showed a building that is currently on the property. Staff stated that the building is being used for storage of vehicles. Mr. Klco stated that Mr. Mackovjak is renting the building to another gentleman so that he can store and work on his own personal vehicles. Staff then showed the 2009 Comprehensive Plan land use map. Staff stated this area was designated to be a rural residential area and lot sizes were to be between 0.75 of acre to 2 acres. This was to be a transition between the smaller lots on Dayton and the larger lots in Perry Township.

Staff stated that the S-1 District is designed as a protection/recreation district, not a commercial/recreation district. The purpose statement for the S-1 has the district as a way to protect wildlife preserves, scenic waterways, wooded areas, and other natural or manmade areas which will enhance the environmental atmosphere of residents and visitors to Madison Township, Lake County, Ohio. The S-1 District is not designed to be a commercial/recreation district. Staff also stated that the one proposed use, fishing lake, can be done as a conditional use under M-1, but cannot be done under S-1; and the other proposed use, recreation fields, can be done as a permitted use under S-1, but cannot be done as a use under M-1.

Mr. Klco stated that Mr. Mackovjak has stated various recreational uses for the properties besides what is listed in the letter; some of them allowable, some not. Mr. Klco also stated that keeping the M-1 may be worse for the neighborhood.

The Committee asked where the other S-1 Districts were located. Staff stated there were two types of S-1 Districts: the Grand River S-1 and Basic S-1 Districts. The Grand River S-1 is designed to protect the river by using 500-foot buffers that increase lot size and limit activities such as logging. The Basic S-1 is used to protect natural resources and provide recreation. Currently, the land along the Grand River is zoned Grand River S-1 and the Stanton Park land is zoned Basic S-1.

Staff stated that what is proposed is a commercial/recreation and goes beyond what S-1 was designed to do. Harpersfield Township is going through a process to create commercial/recreation zones with the GaReat complex. Madison Township would need to be careful if they go through the process of creating a commercial/recreation district. Painesville Township had a recreation district with limited uses and has been challenged on it.

Staff recommended not accepting the zoning district change because it does not conform to the Comprehensive Plan. The S-1 District is designed as a protection/recreation district, not a commercial/recreation district.

Staff recommends that, if the owner wishes this use, then they should consider creating a new commercial/recreation district or pursue it by using the existing zoning and the associated conditional use permit process.

Mr. Morse made a motion to recommend that the district change not be accepted.

Mr. Welch seconded the motion.

All voted "Aye" with one member abstaining.

Motion passed.

### **Madison Township- District Change P-1, Professional Office to R-4, Multiple Dwelling**

Staff stated that this requested change was from P-1, Professional to R-4, Multiple Dwelling. Staff stated that this request was initiated by Malcolm and Cindy Reed and is on one-third (1/3) of an acre of land. According to the request, the Reeds would like to use the house as a single-family residence. Staff showed the air photo of the property.

Staff showed the zoning map, which showed that the land is zoned P-1, the property next door was zoned P-1 and land behind the lot was zoned R-4. The land across the street is zoned R-2. Staff showed the land use map. He stated the area was a mixture of single-family and multi-family. Staff then showed the 2009 Comprehensive Plan land use map and stated this area was designated to be an R-2 area.

Staff said Section 109.1, Use Regulations, stated that a building or premises shall be used only for the following purposes: 109.1.1, The use regulations for any R-4 zoned area as of January 1<sup>st</sup>, 1996 may include the uses permitted within the R-1, R-2, and R-3 Single-Family District. Staff stated that the R-4 was the wrong zoning district for single-family zoning. The owners would not be allowed to use the

house as single-family in an R-4 district. Mr. Klco stated that the application could be amended during the hearing.

Staff stated that the house was vacant. Mr. Klco stated that the land was rezoned to P-1 to allow for an HR Block office. That office closed 5 years ago. The committee asked if the house was livable. Mr. Klco stated, "Yes".

Staff is recommending that the proposed district not be accepted because it is not in conformance with 2009 Comprehensive Plan.

The applicant's letter indicates that they wish to use the house "as a primary home of residence". This is not in conformance with the Section 109.1.1.

Rezoning the property to R-2, Single-Family, would be a more appropriate decision.

Mr. Klco made a motion to not recommend the district change and recommended sending information on which district would allow the proposed use.

Ms. Diak seconded the motion.

All voted "Aye".

Motion passed.

### **Leroy Township Text Amendment Section 15**

This zoning case was initiated by the Leroy Township Zoning Commission. They are revising Section 15 of the Zoning Resolution. Staff stated they are:

- Adding a new purpose statement to Chapter 15.
- Dividing the permitted uses and conditional uses into two separate sections.
- The language for Section 15.01, 2, "A dwelling shall be deemed a permanent building other than an accessory building or garage, with complete living facilities, designed, intended and built to be occupied by not more than two (2) families living independently of each other. Trailer coaches shall not be used for residential purposes" has been removed from the text.
- Mining or surface extraction of gravel or other earth material has been added as a conditional use.
- Table has been added for the lot development and building standards replacing the old language of Sections 15.03 through 15.10.
- Section 15.06, Lots Established Prior to Zoning, and Section 15.07, Site Considerations, are new sections with new language.
- Section 15.11, Screening and Landscaping has been moved up to Section 15.09 and Section 15.12, Parking, has been moved up to Section 15.10.

Staff stated that one of the goals of the 2005 Leroy Comprehensive Plan was to write and adopt a new Zoning Resolution. Many of the proposed changes that were presented are revisions to make it a user-friendly code.

Staff stated that mining or surface extraction of gravel or other earth material is being added as a conditional use, but there are no conditions listed in Chapter 14. There are conditions that have to be followed that are spelled out in the ORC 519.

Staff recommended that:

- The language for Section 15.01, 2 is a definition for dwelling. This definition should be kept in the Leroy Township Zoning Resolution, possibly in the Definition Section.
- Accessory buildings should be a separate section from section accessory uses. Accessory building standards, building size, number of buildings, etc. could be added as a chart.
- A lot that has frontage on a cul-de-sac should be defined. Are there lots on the cul-de-sac bulb, lots that have 75% of their frontage on cul-de-sac bulb or any lot that is on a street that has a cul-de-sac at the end of it?
- Conditions need to be added for mining or surface extraction of gravel as a conditional use. These conditions shall be in conformance with ORC 519.141.
- Riparian setbacks have been added to the Leroy Township Zoning Resolution as Section 31. A reference should be made to Section 31 in Section 15.07, Site Consideration.

The Committee stated that there were some formatting issues in the submission. A, B and C needed to be indented and width was misspelled on the table. Staff stated that it is important to note these things to the townships so that they can be corrected. So long as it does not affect the intent of the text change, it is something that could be changed later.

Mr. Welch made a motion to recommend the text changes with staff's suggestions.

Mr. Hullihen seconded the motion.

All voted "Aye".

### **Leroy Township Text Amendment Section 16**

This zoning case was initiated by the Leroy Township Zoning Commission. They are revising three sections in Section 16 of the Zoning Resolution. They are:

- Section 16.04 1 D has been added. It states that "no traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood."
- The language "Grown or produced on the premises" is being removed.
- The amount of land being needed to have an accessory building not to exceed 2,000 square feet is being reduced from three acres to two acres. This means any lot two acres and under is limited to having less than 2,000 square feet in accessory structures.

Staff stated that one of the goals of the 2005 Leroy Comprehensive Plan was to write and adopt a new Zoning Resolution. Many of the proposed changes presented are revisions to make the Zoning Resolution a more user-friendly code and consistent with Section 15.

Staff stated that ORC 519.21 C states *"such sections confer no power on any township zoning commission, board of township trustees, or board of zoning appeals to prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for a farm market where fifty per cent or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year. However, a board of township trustees, as provided in Section 519.02 of the Revised Code, may regulate such factors pertaining to farm markets such as size of the structure, size of parking areas that may be required, set back building lines, and egress or ingress, where such regulation is necessary to protect the public health and safety"*. "Grown or produced on the premises" was not in conformance with this law because the old rule required all the product to be grown on site.

Staff also stated that the average trip per day per dwelling unit is 9.71. For a 10 dwelling unit subdivision, there would be 99.71 trips per day of the residents of the subdivision. If one of those residents cut hair as a home occupation and had five customers a day, that would add an additional 10 trips a day and exceed "no traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood." Any home occupation will increase the traffic of the neighborhood. Having a rule like this could pit neighbor against neighbor and possibly pull the Township into the fight because they could claim the township was not enforcing the zoning to the letter of the law. But, this rule could also give the Township a tool to force home occupation out of the neighborhoods when they outgrow the homes.

Staff recommended that:

- Recommend the three text changes in this amendment.
- Recommend that the Township explore how much a reasonable amount of traffic a home occupation could generate.

Mr. Welch made a motion to recommend the text changes with staff's suggestions.

Mr. Klco seconded the motion.

All voted "Aye".

### **Leroy Township Text Amendment Section 32**

This zoning case was initiated by the Leroy Township Zoning Commission. They are adding to sections of Section 32, Design Standards, of the Zoning Resolution. Staff stated that this section provides requirements for façade elements, building entrance elements, roof elements, shipping and receiving area elements, color and lighting of buildings in non-residential districts. It also provides language on how these elements are to be reviewed.

Staff stated that one goal of the Comprehensive Plan was to create commercial and retail districts to be attractive, inviting, convenient, and respectful of the rural character of the township. To do this, the

Township was to implement architectural design requirements for commercial uses in the Zoning Resolution, which would be administered by the Township Zoning Commission during the site plan review process.

Staff stated that ORC 519.171 allows townships to set up Architectural Review Board authorized standards and procedures. The Township can use the Zoning Commission in place of a separate Architectural Review Board. Everything proposed in this text amendment is in accordance with the Ohio Revised Code. Staff also stated that the standards presented are based on the Concord Township Design Standards. Concord Township recently made a change to their 37.05 F Long Wall Section. They eliminated language that required walls that were exceeding 100 feet to have a change in depth of at least 3% of the entire length of the wall. Leroy Township is proposing the same language as in 32.04 C. Finally, there is no reference to which zoning districts would be required to use these regulations.

Staff recommended accepting the language as presented with two alterations. This conforms to the Comprehensive Plan.

- Elimination of the language of having a depth of at least 3% change in projection or recesses in 32.04 C.
- Name the zoning district that would be required to have buildings adhere to design setbacks.

Mr. Welch made a motion to recommend the text changes with staff's suggestions.

Mr. Klco seconded the motion.

All voted "Aye".

Mr. Terriaco asked if there was any new business.

Staff said Mr. Urbanski felt that he did not have the time to give this committee in order to do a good job, and he had resigned. Painesville Township is looking into adding another member.

Mr. Terriaco asked if there was any old business.

Staff stated the eight zoning cases that created the new townhall commons districts and revised other various parts of the Concord Township Zoning Resolution was passed by the Trustees without cluster homes as a use.

Mr. Klco stated that the prohibition of farm animals in a plat subdivision passed.

Mr. Bodnar was asked about the Ice Cream Stand rezoning and Mr. Bodnar stated it did not get passed.

There was no public present for the second public comment.

The meeting was adjourned at 7:05 PM